

MEMORANDUM

February 6, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: HAROLD G. BECKS, ESQ.
Harold G. Becks & Associates

BRIAN T. CHU
Principal Deputy County Counsel
General Litigation Division

RE: Jessica Sorto v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. YC050966

DATE OF
INCIDENT: January 13, 2005

AUTHORITY
REQUESTED: \$250,000

COUNTY
DEPARTMENT: Sheriff's Department

CLAIMS BOARD ACTION:



Approve



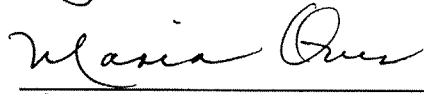
Disapprove



Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on February 22, 2007

SUMMARY

This is a recommendation to settle for \$250,000 the lawsuit brought by Jessica Sorto seeking damages for personal injuries she sustained in a motor vehicle accident with a Sheriff's Deputy on January 13, 2005.

LEGAL PRINCIPLE

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

On January 13, 2005, at approximately 2:30 p.m., twenty-year-old Jessica Sorto was walking mid-block across Manhattan Beach Boulevard in a marked crosswalk east of Cranbrook Avenue in the unincorporated area. In this area, Manhattan Beach Boulevard has a posted speed limit of 35 miles-per-hour and has two traffic lanes in each of the east and westbound directions, with a yellow striped center median. The street alignment is straight with no visual obstructions.

At the same time, a Sheriff's Deputy approached the crosswalk in a marked patrol unit in the number one eastbound lane at approximately 35-40 miles-per-hour. Ms. Sorto saw the patrol unit approaching in the distance and began crossing the street when it was approximately 150 feet away. She assumed that the Deputy saw her and was going to stop. By the time she took three or four steps, however, the patrol unit did not stop and struck Ms. Sorto on her left side. Ms. Sorto became airborne, impacted and shattered the windshield and fell to the ground. The Deputy, while having a clear view of the roadway, did not see Ms. Sorto until after the collision. A traffic investigation by the CHP concluded that the Deputy was at fault for failing to yield to a pedestrian.

Ms. Sorto contends that she had the right of way in the crosswalk and that the Deputy negligently drove the patrol unit. She also contends that the County is vicariously liable for the Deputy's negligence.

DAMAGES

As a result of the collision, Ms. Sorto received a fractured left upper arm and wrist, a four-inch long abdominal laceration and soft-tissue injury to her lower back and neck. She was treated at the scene by paramedics and transported to a hospital for further treatment. Ms. Sorto was evaluated by an orthopedist following the incident and treated with a chiropractor for four months. Her left arm was in a cast for several weeks, and her left wrist had to have a rod implanted for stabilization. Ms. Sorto continues to have pain in her back and left wrist, has a four-inch abdominal scar and an area of abdominal scar tissue

measuring ten inches wide. She has been recommended for scar revision surgery and corrective back surgery.

Should this matter proceed to trial, we anticipate Ms. Sorto will offer evidence of damages as follows:

Past medical expenses	\$ 70,000
Future medical expenses	\$ 40,000
Pain and suffering	<u>\$ 500,000</u>
TOTAL	<u>\$ 610,000</u>

STATUS OF CASE

This case was mediated on August 2, 2006, and again on August 24, 2006. The case has been placed on the court's settlement calendar to allow for action on this proposed settlement.

Three roundtable discussions were conducted in this case with participation by Carl Warren representatives, the Sheriff's Department, CAO Risk Management staff, private counsel and County Counsel attorneys. All were in agreement that this case, with a probable verdict of up to \$400,000, should be settled with the aid of an experienced mediator. The proposed settlement is at the low end of the settlement value range.

Approximate expenses incurred by the County in defense of this matter are attorneys' fees of \$12,316 and costs of \$6,014. These expenses include orthopedic and plastic surgery IME's, consultation with an orthopedist specializing in wrist injury and a plastic surgeon, and participation in two mediations.

EVALUATION

This is a case of undisputed liability. The roadway was straight and without visual obstruction. Ms. Sorto believed that the Deputy saw her and would yield to her once she stepped into the crosswalk. Based on the patrol unit's speed, there should have been sufficient time and distance for the Deputy to stop and yield to Ms. Sorto.

Once she stepped into the crosswalk, Ms. Sorto had the right of way, and the Deputy was required to stop. However, the Deputy did not see Ms. Sorto until the actual collision occurred. There was no reason for failing to see Ms. Sorto either before she entered the crosswalk or while she was in the crosswalk. The fact that the Deputy did not see Ms. Sorto until after the impact is convincing evidence that the Deputy was inattentive.

While not admissible as evidence in a trial, the Sheriff's Department concluded that the Deputy violated established policies and procedures, and appropriate administrative action was taken.

Ms. Sorto received significant injury as a result of this accident and will be entitled to economic and non-economic damages. A reasonable settlement of this action at this time, however, will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

RECOMMENDATION

We join our third party administrator, Carl Warren & Company, and our private counsel, Harold G. Becks & Associates, in recommending a total settlement of this matter in the amount of \$250,000. The Sheriff's Department concurs in this settlement recommendation.

APPROVED:



RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

RLR:BTC:ac